

**RESOLUTION NO. 74887**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN JOSE AUTHORIZING THE DIRECTOR OF  
TRANSPORTATION TO SUBMIT A GRANT  
APPLICATION TO THE BAY AREA METROPOLITAN  
TRANSPORTATION COMMISSION AND TO  
NEGOTIATE AND EXECUTE ANY DOCUMENTS  
RELATED TO ACCEPTANCE OF GRANT FUNDING  
UNDER THE FEDERAL AMERICAN RECOVERY AND  
REINVESTMENT ACT OF 2009 (ARRA) AND STATING  
THE ASSURANCE TO COMPLETE THE PROJECT**

**WHEREAS**, the City of San José (herein referred to as "Applicant") is submitting an application to the Metropolitan Transportation Commission ("MTC") for \$12,700,000 in funding from the federal American Recovery and Reinvestment Act of 2009 ("ARRA") for the San Jose Street Resurfacing and Rehabilitation Project (herein referred to as "Project") for the MTC Regional ARRA Program (contained in MTC Resolution No. 3885) (herein referred to as "Program"); and

**WHEREAS**, pursuant to ARRA, and any regulations and/or guidance promulgated thereunder, eligible project sponsors wishing to receive Regional ARRA funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization ("MPO"), for review and inclusion in the MPO's Transportation Improvement Program ("TIP"); and

**WHEREAS**, MTC is the MPO for the nine counties of the San Francisco Bay region; and

**WHEREAS**, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606), revised applicable to federal ARRA fund delivery and has adopted (or is scheduled to adopt) in MTC Resolution No. 3885 such additional requirements as are necessary or appropriate to meet the obligations/award deadlines in the ARRA; and

**WHEREAS**, Applicant is an eligible project sponsor for ARRA funds; and

**WHEREAS**, as part of the application for ARRA funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- 1) that the sponsor understands that the ARRA funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional ARRA or other MTC-programmed funds; and

- 2) that Project will comply with the procedures specified in MTC's Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and with all project-specific requirements as set forth in MTC's Regional ARRA Program (MTC Resolution No. 3885); and Project as described in the application, and if approved, as included in MTC's TIP; and
- 3) that Project will comply with all the project-specific requirements as set forth in the federal ARRA and appropriate applicable regulations or guidance.

**NOW, THEREFORE,** BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE that the Director of the Department of Transportation on behalf of the City of San Jose is authorized to execute and file an application for funding under the American Recovery and Reinvestment Act of 2008 for the Project and to negotiate and execute related grant documents to accept any grant funding awarded to the City of San Jose for the Project; and be it further

**RESOLVED** that Applicant by adopting this resolution does hereby state that:

1. Applicant understands that the ARRA funding for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the Applicant from other funds, and that the Applicant does not expect any cost increases to be funded with additional ARRA or MTC-programmed funds; and
2. Applicant understands the funding deadlines associated with these funds and will comply with the applicable provisions and requirements of the Regional ARRA Program (MTC Resolution No. 3885) and Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
3. Project will be implemented as described in the complete application and in this resolution and, if approved, for the amount programmed in the MTC federal TIP; and
4. Project will comply with all the project-specific requirements as set forth in the ARRA and appropriate applicable regulations or guidance; and be it further

**RESOLVED** that there is no legal impediment to Applicant making applications for the funds; and be it further

**RESOLVED** that there is no pending or threatened litigation that might in any way adversely affect the proposed Project, or the ability of the City to deliver such Project; and be it further

**RESOLVED** that Applicant authorizes its Director of Department of Transportation to execute and file an application with MTC for ARRA funding for the Project as referenced in this resolution, and be it further

**RESOLVED** that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

**RESOLVED** that the MTC is requested to support the application for the Project described in the resolution and to include the Project, if approved, in MTC's TIP.

ADOPTED this 28<sup>th</sup> day of April, 2009, by the following vote:

AYES: CAMPOS, CHU, HERRERA, KALRA, LICCARDO,  
NGUYEN, OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: CHIRCO, CONSTANT.

DISQUALIFIED: NONE.

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk